REMARKS

Claims 1-8 and 17-32 are pending in the application after this amendment cancels claims 9-16. Applicant amends claims 1 and 17 for clarification. No new matter has been added by the amendments, which are supported throughout the specification and figures. In particular, the amendment is supported at least by the final 3 lines of original claim 25. In view of the amendments and the following remarks, reconsideration and allowance of the instant application are respectfully requested.

Applicant notes that the Examiner's acknowledgement of the claim for foreign priority under 35 U.S.C. § 119 does not acknowledge receipt of certified copies of the priority documents. Applicant submitted on August 29, 2001 certified copies of Japanese Patent Application No. 2000-319945 (filed October 19, 2000) and Japanese Patent Application No. 2001-216898 (filed July 17, 2001). Applicant respectfully requests that the Examiner acknowledge receipt of the priority documents in the next communication from the Office.

Claims 9-16 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner asserts that the claims currently recites computer software components for manipulating data and that "the invention is functional descriptive material because it comprises merely software for manipulating data". The cancellation of claim 9-16 obviates this rejection.

Claims 1-3, 6, 9-11, 14, 17-19, 22, 25-27, and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tedesco et al. (U.S. Patent 6,430,537) in view of Gargeya et al. (U.S. Patent 6,714,643) and further in view of Yu (U.S. Patent 5,561,456). Claims 4, 12, 20, and 28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tedesco and Gargeya in view of Yu, as applied to claims 1, 9, 17, 25 above, and further in view of Gonzales (U.S. Patent 6,725,278). Claims 5, 7, 13, 15, 21, 23, 29, and 31 are rejected under 35 U.S.C. § 103(a) as being

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unpatentable over Tedesco and Gargeya in view of Yu, as applied to claims 1, 9, 17, 25 above, and further in view of Dowling (U.S. Patent 6,845,361). Applicant respectfully traverses the rejections.

Tedesco apparently discusses a networked jukebox that allows patrons to request music from a server. Gargeya apparently discusses a call center management technique. The Examiner relies on Yu to disclose the feature of sending the content to a client terminal device of the user (Office Action; page 5, lines 4-7). The Examiner asserts that it would have been obvious to combine Yu with the other references "because by sending content to client terminal device would reduce the travel time and travel cost for the client" (Office Action; page 5, lines 10-11). However, this motivation to combine the references Is the result of improper hindsight reasoning. In particular, neither the jukebox system in Tedesco, nor the call center in Gargeya require any travel by any client. The user in Tedesco is apparently at the jukebox, and therefore does not need to reduce travel time. Similarly, the user in Gargeya is using a call center, and does not travel to the call center. Therefore, a person of ordinary skill in the art and with knowledge of both Tedesco and Gargeya would not be motivated to combine those references with Yu for the purpose of reducing travel time, or for any other reason. Additionally, there is no suggestion in any of the references as to the manner of combining the references, and therefore the rejection based on the combination is improper.

Additionally, as discussed previously, the Examiner has failed to establish how the estimations based on past calls at a call center described in Gargeya could be applied—or even add value—to a local jukebox song queue, as described in Tedesco, where song durations are already known. Tedesco describes a local queue managed at a jukebox that only accounts for an order of songs requested locally and the play times for these songs. Thus, the local queue already

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provides accurate wait times based solely on the play times of songs requested earlier at the jukebox. There is no motivation or suggestion in either reference to combine this local song queue with the call center estimation technique described in Gargeya. The combination of these references is therefore based on improper hindsight from the claimed invention, which results in piecing together disparate features from the unrelated techniques described in these references. Consequently, the rejection is improper at least on this additional basis.

Additionally, the cited references do not disclose all of the features of claim 1. Claim 1 relates to a method for displaying wait order that includes, *inter alia*, sending information from a server machine to a client terminal device whenever a distribution request is sent by a user via such client terminal device, the *distribution request expressing a request for distributing content to such client terminal device via a network*, and *the information expressing* a distribution schedule including *a distribution schedule time calculated based in part on data size of the content and data-communications speed of the network*. The method of amended claim 1 further includes *displaying on the client terminal device the received total number of other users*, and the order in the queue of the user in relation to such total number and the distribution schedule time in a graphical or text style *based on the information received from the server machine*.

The Examiner asserts that Tedesco discloses the feature of sending information to a client terminal after receiving a distribution request (Office Action; page 3, bottom, citing Tedesco). However, the Examiner apparently equates input device 102 of Tedesco as the client terminal device. However, without admitting the veracity of this assertion, Applicant submits that input device 102 is not the recipient of any distributed content, but is rather merely an input device, for instance a keypad or touch screen (Tedesco; col. 3, line 28-29). Therefore, input device 102 of

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Tedesco does not anticipate the client device of claim 1. Therefore, for at least this additional reason claim 1 is allowable.

The cited portions of Tedesco also do not disclose or suggest sending information from a server machine to a client terminal device which expresses a time to start sending the content to a client terminal device of the user calculated *based in part on a data-communications speed* of the network, as recited in claim 1. The cited portions of Tedesco only describe a jukebox displaying the queue order of songs requested locally at a particular jukebox, and do not disclose or suggest providing data request queuing information from the server. Gargeya only describes estimating call durations based on voice call answering parameters, and does not disclose or suggest the claimed calculation based on data-communications speed of a network. Applicant therefore respectfully submits that neither reference discloses or suggests the features of the claimed invention of sending information from a server machine to a client terminal device whenever a distribution request is sent by a user via such client terminal device, the information expressing a distribution schedule including a distribution schedule time calculated based in part on data size of the content and data-communications speed of the network. Therefore, for at least this reason claim 1 is allowable.

Additionally, Applicant submits that none of the references disclose or suggest *displaying on the client terminal device the received total number of other users*, and the order in the queue of the user in relation to such total number and the distribution schedule time in a graphical or text style. Tedesco is apparently relied on as disclosing this feature (Office Action; page 4, lines 9-13). However, the cited sections of Tedesco do not relate to receiving information at a client terminal, since the device in Tedesco apparently relates to a stand-alone jukebox. Applicant amends claims 1 and 17 to clarify this feature, which is already present in claim 25. In

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particular, the amended claims recited that the displaying in a graphical or text style is *based on the information received from the server machine*. There is no indication that the system in Tedesco, even if it does utilize a server to distribute songs, displays graphics or text based on information from a server machine received by a client machine. Therefore for at least this additional reason claim 1 is allowable.

The Examiner relied upon additional references to specifically address the features recited in the dependent claims. And as such, the additional of these references would still have failed to cure the aforementioned deficiencies of Tedesco and Gargeya, even assuming, *arguendo*, that it would have been obvious to one skilled in the art to do so at the time the claimed invention was made.

Accordingly, Applicant respectfully submits that claim 1, together with claims 2-8 dependent therefrom, is patentable over the cited references, separately and in combination, for at least the above-stated reasons. Claims 17 and 25 incorporate features that correspond to those of claim 1 cited above, and are, therefore, together with claims 18-24 and 26-32 dependent therefrom, respectively, patentable over the cited references for at least the same reasons. Therefore, Applicant submits that the independent claims, and their dependent claims, are allowable for at least this reason.

As regarding claims 5, 21, and 29, the Examiner asserts that the combination of Tedesco, Gargeya, and Yu disclose the invention substantially as rejected in claims 1, 9, 17, and 25 above, but does not explicitly disclose the roll-call time information used for roll-call processing. The Examiner asserts that Dowling disclose this feature, and suggests that the motivation to combine the references is to "confirm the will to stay in the queue from the client, because by confirm the will to stay in the queue from the client would be [sic] benefit in calculating the accurate wait

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time for the clients that are currently in the queue" (Office Action; page 9, bottom, to page 10, top). However, this reasoning is circular, since it merely expresses an apparent advantage of Dowling, without indicating why a person of ordinary skill in the art and aware of Tedesco, Gargeya, and Yu would be motivated to make the combination with Dowling.

Likewise, as regarding claims 8, 16, 24, and 32, the Examiner asserts that the combination of Tedesco, Gargeya, and Yu disclose the invention substantially as rejected in claims 1, 9, 17, and 25 above, but does not explicitly disclose displaying advertisement or a chat space on the client computer. The Examiner takes Official Notice that displaying advertisements or chat space on a client computer is well known, and further asserts that it would have been obvious to incorporate such a feature to prevent a user from becoming bored. Applicants respectfully challenge the Examiner's taking of Official Notice in regard to claims 8, 16, 24, and 32, and request that the Examiner cite a reference disclosing such a feature, along with a motivation to combine that reference with the previously cited references, or that the rejection be withdrawn.

The above statements on the disclosures in the cited references represent the present opinions of the undersigned attorney. The Examiner is respectfully requested to specifically indicate those portions of the respective reference that provide the basis for a view contrary to any of the above-stated opinions.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

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Respectfully submitted,

Brian E. Hennessey
Reg. No. 51,271

CUSTOMER NO.: 026304
Telephone No.: (212) 940-6311
Fax No.: (212) 940-8986/87
Docket No.: SCEY 18.963 (100809-16277)
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